

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT
DISTRICT OF MASS.

NORTH READING SCHOOL COMMITTEE,
Plaintiff

v.

Civ. No. 05-11162 RCL

BUREAU OF SPECIAL EDUCATION APPEALS
of the MASSACHUSETTS DEPARTMENT of
EDUCATION, MASSACHUSETTS DEPARTMENT
OF EDUCATION, and TIMOTHY GRAFTON and
COURTNEY GRAFTON, as Parents and Next Friend
of M.G.,
Defendants.

OPPOSITION TO MOTION TO DISMISS AND MOTION to STRIKE

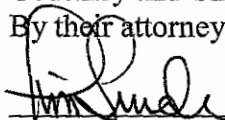
The Defendants, Courtney and Timothy Grafton ("Parents") oppose the Plaintiff North Reading School Committee's (School Committee) Motion to Dismiss Count II of their Counterclaim. Parents are not required to exhaust administrative remedies in this matter since their claim does not relate to the identification, evaluation, or educational placement of their child, or the provision of a free appropriate public education to their child but relates only to the intentional release of protected information following an administrative hearing in which the Parents prevailed as part of an effort to harass, intimidate or expose the Parents to public approbation. In addition, the Parents' Counterclaim does allege facts, which, when proven, will entitle the Parents and their minor child to relief.

The Parents also move that the Court strike from the Memorandum of Law of the North Reading School Committee the 3rd and 4th attachments, since such documents should not be considered in deciding a Motion to Dismiss.

WHEREFORE, the Plaintiffs –in-Counterclaim, Courtney and Timothy Grafton, respectfully request that the Motion to Dismiss Count II of their Counterclaim be denied.

Respectfully submitted,
Courtney and Timothy Grafton
By their attorney,

Date: 10/7/2005




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Certificate of Service

I hereby certify that I have served a copy of the foregoing documents on all counsel of record for each party by first class mail, postage prepaid.

Date: 10/7/2005



Tim Sindelar